

Serial No: 10/824,202

8

Examiner: Luke E. Karpinski
Art Unit: 1616REMARKS

In response to the Patent Office Letter of October 9, 2008, the Applicant respectfully requests re-examination and reconsideration. The Applicant filed an RCE and an extension of time on March 26, 2009 so as to continue the prosecution of this application. Additional amendments have been made in the main claim, namely claim 9 and with these amendments it is believed that this application should now be in condition for allowance.

The Examiner is thanked for the time spent in the interview of March 31, 2009. In this connection, the Applicant refers to the Interview Summary issued the same day in which discussions occurred regarding the Dawson et al reference as outlined in the Interview Summary.

Before discussing the present rejection made by the Examiner and the merits of the present invention, the Applicant wishes to emphasize the fact that the concepts of the present invention and that disclosed in Dawson et al. have substantially different objectives. It is the Applicant's position that Dawson et al. addresses a totally different problem or issue in comparison to the issue of the present invention. Dawson et al. is concerned with a soap-free cleansing composition which has increased speed of foaming and which has good stability. In this regard refer in Dawson et al. to the objects listed in column 3 starting at line 20. It is also noted from Dawson et al. that there is no clear teaching as to how long the gel actually takes to form. As a matter of fact, the indication of the use of elevated pressures in Dawson et al. is an indication of too early a formation of the gel.

Now, in accordance with the present invention this relates to a method for enhancing the manufacturing process by deliberately controlling the formation of the gel so as to overcome the issue of the composition gelling in and clogging up pipes during the manufacturing process. Thus, in accordance with the present invention, the composition is deliberately maintained in a non-gelled state for at least four minutes after the addition of the post-foaming agent. This not only reduces the manufacturing cost of the end product, but it also increases the filling rates; meaning more units of composition of the present invention can be produced in the same time period relative to previously available compositions. Furthermore, this is performed without

Serial No: 10/824,202

9

Examiner: Luke E. Karpinski
Art Unit: 1616

compromising the appearance of the gel on first dispensing from the packaging or from the quality of the lather produced by agitating the gel by the user.

It is the Applicant's position that a person skilled in the art would not be able to arrive at the method defined in claim 1 by consideration of Dawson et al. whether taken alone or in combination with Hall et al. There is absolutely no motivation to solve the same problem as that of the present invention. Neither Dawson et al. nor Hall et al. nor Lyle et al. teach the deliberate creation of a composition which specifically is not converted to a gelled state for at least four minutes after addition of the post-foaming agent to solve the problem of stoppages and breakdowns in the pipe-work of the plant manufacturing the composition. In this regard refer to the background discussion of the present application, particularly with respect to document WO 00/39273.

Now, considering in particular Dawson et al., it is still the Applicant's position that this reference does not teach a delayed gelling of at least four minutes. Instead, Dawson et al. teaches that the final gel product is filled under pressure into the final package. In this regard refer to column 9 of Dawson et al. at lines 8-12 where it is indicated that the final gel product is stored in a pressurized cylinder until it is filled under pressure into the final package. The Applicant does not perform its method in this manner.

In the past the Examiner has also made mention of another part of the teaching in Dawson et al., namely at column 9, lines 3-8, which mentions that a gel can be generated by shaking all components inside a barrier pack type container (i.e., a final package) or by mixing in any vessel which can maintain pressures. However, even under that circumstance, it is noted that the liquid mixture in Dawson et al. is taught as always kept under pressure in storage before being added to any vessel. Furthermore, any vessel that it is added to is taught in Dawson et al. as also being pressurized. In this regard refer in Dawson to the teachings at column 8, line 53 through column 9, line 2 reference is made to pressurizing at several points. More specifically, the Dawson et al. teaching is that the gel is pumped into a steel pipe system where the pressure is maintained at 80-120 psi (column 8, lines 53-57). It is then piped into a storage cylinder which is maintained at 80-90 psi (column 8, lines 65-69). It is hence apparent that the Dawson et al. composition must

Serial No: 10/824,202

10

Examiner: Luke E. Karpinski
Art Unit: 1616

always be kept under pressure, even before packaging, and including before it is added to the barrier pack type container as described by the Examiner with his reference to column 9 at lines 3-7.

In order to make the distinction clear regarding the need for applied pressure in Dawson et al., claims 1 and 9 of the present application has now been amended and with the amendment therein, this claim should now patentably distinguish over Dawson et al. whether taken alone or in combination with Hall et al. Claim 1 has now been amended to indicate that the steps are performed without any applied elevated pressure. Claim 9 has now been amended to indicate that the steps are performed without any applied elevated pressure. Support for this limitation is found in the present application in the paragraph between page 3, line 22 and page 4, line 2, wherein it is indicated that an advantage of the present invention is that, due to the delayed gelling, elevated pressure is not required to pump the composition through the pipe-work. As indicated there, this not only reduces the manufacturing costs of the end product, but it also increases the filling rates; meaning more units of composition of the present invention can be produced in the same time period relative to previously available compositions. Refer also to page 3 of the present application in the paragraph at lines 17-21. Refer also to descriptions of the present method starting at the bottom of page 11 and continuing into page 12 wherein it is noted that there is absolutely no reference to any elevated pressure being required with regard to the examples presented.

Regarding the Lyle reference, like Dawson, Lyle is also designed to solve a different problem to that of the present invention. Lyle relates to a self-forming detergent composition which is intended to overcome the problem of thinning of a mixture when a foaming agent is added (column 1 lines 44-49) and which has greater stability (column 2 lines 23-27). It has therefore nothing to do with the problem which is addressed by the present invention and discussed in detail hereinbefore. Therefore, neither Dawson nor Lyle is concerned with the problem of the composition gelling in and clogging up pipes during production, and neither discloses a composition which is deliberately non-gelling for at least 4 minutes to overcome this issue. A skilled person would, therefore, not be able to arrive at claims 1 or 9 when starting from

Serial No: 10/824,202

11

Examiner: Luke E. Karpinski
Art Unit: 1616

either of these documents as he would have no motivation to solve the same problem as that addressed by the invention. He would thus not deliberately create a composition which cannot gel for at least 4 minutes after addition of the post-foaming agent.

The Applicant has also added new claims 38-43. Claims 38 and 39 depend from claim 1, and claims 40 and 41 depend from claim 9. The Applicant has also added a second independent method claim, namely claim 42 and one related dependent claim, namely claim 43. Claim 42 presents the method more in terms of enhancing the efficiency of the manufacturing process of a post-foaming cleansing composition. Reference is made to a plant having pipe-work and the limitation is also found in claim 42 wherein, due to the delayed gelling, elevated pressure is not required in order to pump the composition through the pipe-work. Certainly, in Dawson et al. elevated pressure is required on the order of at least 80 psi. These further limitations should even further distinguish the method of the present invention over the cited prior art.

In the Patent Office Letter of October 9, 2008, it is noted that the Examiner has set forth several rejections based primarily upon the Dawson et al. reference taken with Lyle et al, and all under 35 USC 103. In view of the amendments in the claims, it is believed that these rejections should now be overcome. The rejection under obviousness double patenting is to be held in abeyance pending an indication of allowable subject matter.

CONCLUSION

In view of the foregoing amendments and remarks, the Applicant respectfully submits that all of the claims pending in the above-identified application are in condition for allowance, and a notice to that effect is earnestly solicited.

If the present application is found by the Examiner not to be in condition for allowance, then the Applicant hereby requests a telephone or personal interview to facilitate the resolution of any remaining matters. Applicant's attorney may be contacted by telephone at the number indicated below to schedule such an interview.

Serial No: 10/824,202

12

Examiner: Luke E. Karpinski
Art Unit: 1616

The U.S. Patent and Trademark Office is authorized to charge any fees incurred as a result of the filing hereof to our Deposit Account No. 19-0120.

Respectfully submitted,
Najem YAQUB et al., Applicants

Date: 4/8/09

David M. Driscoll

Reg. No. 25,075

SALTER & MICHAELSON

321 South Main Street

Providence RI 02903

Tele: 401/421-3141

Fax : 401/861-1953

Customer No. 000987